

HEFCE Assurance Service

Internal Audit Report 34-06

**A review of the Council's approach to compliance
with the Race Relations (Amendment) Act**

July 2006

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1 Executive summary

1.1 Introduction

This report sets out the findings from the internal audit review of the Council's approach to compliance with the Race Relations (Amendment) Act.

1.2 Findings and recommendations

The Council has established appropriate structures and systems to meet its obligations under the Race Relations (Amendment) Act. In consultation with internal and external stakeholders, the Council has developed a race equality scheme, which sets out how it will seek to meet its obligations under the Act. The Council has identified the actions that it needs to take in order to achieve this, and monitors progress against these actions on an annual basis.

The Council's Board is responsible for ensuring that the Council meets its obligations under the Act and both understands and accepts these responsibilities. The Council's race equality activities are led by the Acting Chief Executive and coordinated by the leadership, governance and management team. The Council should, however, ensure that the arrangements in place to promote race equality are broadened to include specific consideration of the work of the Joint Information Systems Committee.

Although the Council has implemented robust mechanisms for integrating the promotion of race equality into its operational activities, the Council is currently seeking to develop ways of embedding further throughout the organisation those activities relating to the promotion of race equality. In addition to this, there is scope to improve the consideration of race equality issues in the policy development process. This could be facilitated by a greater understanding of the issues faced by different racial groups and through improved consultation with representatives of such groups.

The Council seeks to determine its compliance with the Act both through the annual monitoring of its race equality action plan and by conducting a fundamental review of its race equality scheme at least every three years. Although the Council publishes its race equality scheme and related documentation, there is scope for the Council to publicise more extensively its activities in respect of the promotion of race equality.

We have not identified any instances of non-compliance with the Act.

1.3 Overall conclusion

The Council understands and is committed to meeting its obligations under the Race Relations (Amendment) Act. Given the high level of senior management support for the promotion of race equality, together with the robust systems that the Council has established in this respect, the Council should now focus on embedding further the consideration of race equality in its operational processes.

2 Introduction

2.1 Overview

The Council is subject to the Race Relations (Amendment) Act 2000 ('the Act'), which seeks to promote race equality across the public sector. This report sets out the results of our review of the Council's approach to compliance with the Act.

2.2 Scope of review

The specific objectives of our audit were to review:

- the structure and systems the Council has put in place to meet its obligations under the Act;
- the roles and responsibilities of those involved across the Council;
- the processes the Council has in place to ensure compliance with the Act, including specific consideration of:
 - the Council's compliance planning arrangements;
 - the efficiency and effectiveness of the monitoring system used by the Council to obtain evidence on the delivery of its race equality scheme;
 - the Council's reporting arrangements, both internally and externally; and
- how the Council determines whether it is compliant with the Act and, where it is not complying, that there are plans in place to address this.

We have also considered whether the Council is, overall, satisfactorily meeting its obligations under the Act. We have set out our conclusions in this respect in section four of this report.

2.3 Our report

Our report is set out as follows

- **section 1:** an executive summary of our findings and recommendations;
- **section 2:** an introduction to our review and to this report;
- **section 3:** the Council's obligations under the Act;
- **section 4:** our findings and recommendations;
- **section 5:** our assessment of the Council's compliance with the Act.

An implementation plan for our recommendations is set out at appendix one.

3 The Council’s obligations under the Act

Under the Act, the Council is obliged to comply with a number of general and specific duties. We set out in this section a summary of these duties.

3.1 General duties

The Council shall, in carrying out its functions, have due regard to the need to:

- eliminate unlawful racial discrimination;
- promote equality of opportunity; and
- promote good relations between persons of different racial groups.

3.2 Specific duties: Policy and service delivery

The Council shall publish a race equality scheme. The scheme is a timetabled and realistic plan, setting out the Council’s arrangements for meeting the general and specific duties.

The scheme shall show how the Council plans to meet its statutory duties under the Act.

The race equality scheme shall state, in particular:

- those of its functions and policies, or proposed policies, which the Council has assessed as relevant to its performance of the duty imposed by the Act; and
- the Council’s arrangements for:
 - assessing and consulting on the likely impact of its proposed policies on the promotion of race equality;
 - monitoring its policies for any adverse impact on the promotion of race equality;
 - publishing the results of such assessments, consultation and monitoring;
 - ensuring public access to information and services which it provides; and
 - training staff in connection with the duties imposed by the Act.

The Council shall review the assessment contained within the race equality scheme every three years.

3.3 Specific duties: Employment

The Council shall monitor, by reference to the racial groups to which they belong:

- the numbers of:
 - staff in post, and
 - applicants for employment, training and promotion, from each such group, and
- the numbers of staff from each such group who:
 - receive training;
 - benefit or suffer detriment as a result of the Council's performance assessment procedures;
 - are involved in grievance procedures;
 - are the subject of disciplinary procedures; or
 - cease employment with the Council.

The Council shall publish annually the results of this monitoring.

3.4 Specific duties: Educational institutions

The Council shall:

- monitor, by racial group, the number of teaching staff at all the establishments for which it is responsible; and
- take reasonably practicable steps to publish, each year, the results of this monitoring.

4 Findings and recommendations

This section sets out a summary of our findings in relation to each of the objectives of our review, together with our recommendations.

The resource impact for the Council of implementing our recommendations will depend on actions that the Council decides to take in response to each individual recommendation. Consequently, we have not sought to determine the resource impact of any particular course of action.

4.1 Structures and systems

The Council has developed appropriate structures and systems to meet its obligations under the Race Relations (Amendment) Act. The Council has prepared a detailed race equality scheme, which sets out how it will seek to meet its duties under the Act. In developing this scheme, the Council has consulted both with its own staff and with representatives of groups and institutions within the higher education sector.

In order to ensure that the scheme reflects accurately the Council's operations and to facilitate its implementation, representatives of themes and teams from across the Council played a significant role in developing the scheme and preparing the associated action plan.

The implementation of this race equality action plan has been integrated into HEFCE's operational planning processes through inclusion in appropriate theme and team plans.

Furthermore, the Council assesses on an annual basis its performance in the implementation of the action plan. A summary of performance to date, together with any further action required, is then reported to the Council's Board by management. We noted that, due to administrative difficulties, the report for 2005 had not been reported to the Board at the time of our review. We understand, however, that arrangements are being made to submit an appropriately updated report to the Board at the earliest opportunity. [Subsequent to this review, the 2005 report was submitted to the HEFCE Board in May 2006.]

4.2 Roles and responsibilities

The Council has integrated its activities under the Act into the roles and responsibilities of relevant members of staff and is working to embed further the principles of race equality into its operations.

The Council's Board is responsible for ensuring that the Council complies with its duties under the Act. Consequently, members of the Board have received appropriate training on their responsibilities under the Act and on the Council's activities in response to the general and specific duties.

The Council's race equality activities are led internally by the Acting Chief Executive, and are coordinated on an operational level by the Council's leadership, governance and management team. Through its procurement processes, the Council has also made

appropriate arrangements to ensure that its responsibilities under the general duty are passed on to external contractors and suppliers as appropriate.

In order to integrate further the principles of race equality into its operational activities, the Council is considering devolving greater responsibility for race equality issues to individual teams. We would encourage the Council to develop appropriate mechanisms for enhancing the role of individual teams in fulfilling the Council's race equality duties, in order to embed further the principles of race equality into their operational activities.

Recommendation 1

The Council should develop and implement appropriate mechanisms for enhancing the role of individual teams in considering and promoting race equality.

Suggestions for implementation

Strategy and systems

- The Council could develop an overall equality strategy, setting out clearly to staff and stakeholders alike its approach to ensuring that its activities promote inclusion in all its forms. This could consider not only race equality, but also such issues as disability, gender and age equality.
- The Council could appoint 'equality champions' within each team or theme, who could receive appropriate training and could then advise their colleagues within each team or theme on race equality issues.
- The Council could ensure that the desired outcome of each of its activities in respect of race equality is clearly defined and that mechanisms are in place within the appropriate teams to measure and monitor these outcomes. It is important to be clear, however, about the role of the Council within the sector. These desired outcomes should, therefore, relate solely to activities that are undertaken and controlled by the Council, as opposed to activities that are promoted or supported by the Council but undertaken by the wider higher education sector.

People

- The Council could encourage members of staff to develop a greater understanding of the experiences and issues faced by different racial groups, focusing possibly on two questions:
 - how will we act to treat each other with respect?
 - what do we need to know about each others' cultures and experiences?

The Council could then use these questions to develop a consensus (for example, through workshops or other managed fora) on a set of core competencies for staff across different teams or themes. These competencies could then form a basis for staff development and review.

4.3 Operational processes

The Council has developed robust mechanisms for integrating its actions in response to the Act into its operational activities and is working to improve further the consideration of race equality in the policy development process.

In developing its race equality scheme, and consistent with the requirements of the Act, the Council has identified each of its functions and has considered in detail their impact on its race equality duties. The Council has then determined how each of these functions will seek to address the Council's responsibilities under the Act and what further actions are required to ensure that this can be achieved. We note, however, that the Council's race equality scheme and associated processes and activities do not consider explicitly the work of the Joint Information Systems Committee (JISC).

Recommendation 2

The Council should consider the impact of the work of the Joint Information Systems Committee on its duties with respect to race equality, and should develop appropriate mechanisms to ensure that the Committee's activities are consistent with the Council's obligations under the Race Relations (Amendment) Act.

Suggestions for implementation

- The Council could facilitate the development of a separate race equality scheme for JISC, focused on the full range of JISC's activities and feeding into a detailed action plan for the organisation.
- Alternatively, the Council could include JISC's activities within its own race equality scheme and could work with JISC staff to develop a detailed race equality action plan covering each of JISC's activities.

The Council's race equality scheme sets out how its duties under the Act will be reflected in policy development and how the outcomes of its activities in respect of its duties under the Act will be monitored. It also explains how members of staff are trained with respect to the Council's responsibilities under the Act and how information regarding the Council's activities is made available to the public.

There is, however, scope for the Council to improve further the consideration of race equality issues during the policy development process. In particular, the Council does not currently have mechanisms in place to ensure that race equality is considered appropriately and consistently in all areas of policy development. This is in contrast to the Council's consideration of the regulatory burden of new and revised policies, for which it has a specific regulatory impact assessment process.

Recommendation 3

The Council should develop and implement appropriate mechanisms for ensuring that race equality is considered appropriately and consistently across all areas of policy development.

Suggestions for implementation

Developing understanding of race equality issues

- The Council could seek to develop a greater understanding of the impact of specific policies on different racial groups by improving its arrangements for consulting with representatives of such groups. This could be a difficult task, given that these groups are often excluded precisely because they do not necessarily respond to existing models of interaction.
- For this reason, the Council could consider innovative models of involvement and consultation. These could include:
 - research into the experience of users and providers of higher education from different racial groups;
 - the development of links with national representative and campaigning groups;
 - investment in the development of support and involvement mechanisms within existing organisational and stakeholder communities.

The policy development process

- The Council could develop a tool to guide members of the Council's staff through the consideration of race equality issues (or, indeed, all equality issues) when developing new or reviewing existing policies or projects. This could serve as a reminder of the different issues that should be considered at each stage of the process, and could perform a role similar to that of the Council's regulatory impact assessment tool.

We have set out in appendix two some issues that the Council may wish to consider if it decides to develop such a race equality impact assessment tool, together with an example of a process that could be adopted.

The Council collects and monitors information relating to the racial background of its own staff and of applicants for posts within the Council. The Council also monitors, by reference to the racial groups to which they belong, the activities of its staff with respect to training, performance assessment, termination of employment and involvement in grievance and disciplinary procedures. In accordance with its specific duty in respect of employment, the Council reports annually to the Board on the results of this monitoring and publishes this report on its website.

Furthermore, and consistent with its specific duty in respect of educational institutions, the Council collates annually information on the racial background of staff and students in higher education in England. The Council likewise publishes this information on its website.

4.4 Determination of compliance

The Council has instituted formal mechanisms for determining its compliance with the Act and reports the results of these both internally and externally. In addition to the annual review of performance against the race equality scheme action plan, as mentioned in section 4.1 above, the Council undertakes a periodic fundamental review of its race equality scheme.

Having prepared the original scheme in 2002, the Council conducted the first such review in 2004, in response to changes to the Council's operational structure. This is consistent with the requirements of the Act, which requires that a fundamental review of an organisation's race equality scheme be conducted at least every three years. The Council plans to undertake a further fundamental review by 2007.

In addition to these internal reviews, the Council commissions periodic independent reviews of its activities in response to the Act, of which this review is one.

Given the nature and extent of the activities undertaken by the Council to promote race equality both within the organisation and through its operational activities, together with the detailed level of monitoring data available, there is significant scope for the Council to increase the extent to which it publicises its activities in this area. Given the Council's role in the sector, greater publicity surrounding its activities to secure race equality would serve to promote the consideration of race equality not only across the Council's operations but also across the sector as a whole.

Recommendation 4

The Council should seek to publicise more extensively its activities in respect of race equality.

Suggestions for implementation

- The Council could, when reporting on race equality issues, focus less on process and statistics and more on progress and outcomes. This would provide the Council with the opportunity to showcase the progress that it has made in this regard and could serve as an example to the sector of what can be achieved. Again, however, it is important to be clear about the role of the Council within the sector. Therefore, such reporting should relate solely to activities that are undertaken and controlled by the Council, as opposed to activities that are promoted or supported by the Council but undertaken by the wider higher education sector.
- The Council could consider developing a communications strategy with respect to equality issues, using positive examples of activities and concrete examples to reinforce its message to the sector in respect of equality issues.

5 Assessment of compliance with the Act

We set out in this section our assessment of the Council's compliance with the Act.

Duty	Assessment	Comment
General duty		
<p>The Council shall, in carrying out its functions, have due regard to the need to</p> <ul style="list-style-type: none"> • eliminate unlawful racial discrimination; • promote equality of opportunity; and • promote good relations between persons of different racial groups. 	Compliant	The Council understands its responsibilities with regard to racial equality, and is working to integrate further the principles of racial equality into its operations.
Specific duties: Policy and service delivery		
The Council shall publish a race equality scheme. The scheme is a timetabled and realistic plan, setting out the Council's arrangements for meeting the general and specific duties.	Compliant	The Council has developed and published a race equality scheme.
The scheme shall show how the Council plans to meet its statutory duties under the Act.	Compliant	The Council's race equality scheme sets out how it seeks to meet its general and specific duties under the Act.
<p>The race equality scheme shall state, in particular:</p> <ul style="list-style-type: none"> • those of its functions and policies, or proposed policies, which the Council has assessed as relevant to its performance of the duty imposed by the Act; • the Council's arrangements for: <ul style="list-style-type: none"> ○ assessing and consulting on the likely impact of its proposed policies on the promotion of race equality; ○ monitoring its policies for any adverse impact on the promotion of race equality; ○ publishing the results of such assessments, consultation and monitoring; ○ ensuring public access to information and services which it provides; and ○ training staff in connection with the duties imposed by the Act. 	Compliant	The content of the Council's race equality scheme is consistent with that required by the Act. In particular, it contains information with respect to each of the specific areas listed.
The Council shall review the assessment contained within the race equality scheme every three years.	Compliant	The Council's race equality scheme was established in 2002, and was reviewed in 2004.

Duty	Assessment	Comment
Specific duties: Employment		
<p>The Council shall monitor, by reference to the racial groups to which they belong,</p> <ul style="list-style-type: none"> • the numbers of: <ul style="list-style-type: none"> ○ staff in post, and ○ applicants for employment, training and promotion, from each such group, and • the numbers of staff from each such group who: <ul style="list-style-type: none"> ○ receive training; ○ benefit or suffer detriment as a result of the Council’s performance assessment procedures; ○ are involved in grievance procedures; ○ are the subject of disciplinary procedures; or ○ cease employment with the Council. 	Compliant	<p>The Council collects and monitors information relating to the racial background of its own staff and of applicants for posts within the Council. The Council also monitors, by reference to the racial groups to which they belong, the activities of its staff with respect to training, performance assessment, termination of employment and involvement in grievance and disciplinary procedures.</p>
<p>The Council shall publish annually the results of this monitoring.</p>	Compliant	<p>The Council reports annually to the Board on the results of its monitoring of staff. Board papers are published on the Council’s website.</p>
Specific duties: Educational institutions		
<p>The Council shall:</p> <ul style="list-style-type: none"> • monitor, by racial group, the number of teaching staff at all the establishments for which it is responsible; and • take reasonably practicable steps to publish, each year, the results of this monitoring. 	Compliant	<p>The Council annually collates information on the racial background of staff and students in higher education in England. The Council publishes this information on its website.</p>

Appendix 1 Implementation plan

	Recommendation	Priority	Management response	Responsible officer	Timetable
1	The Council should develop and implement appropriate mechanisms for enhancing the role of individual teams in considering and promoting race equality.	Medium	Agreed. We have now developed a single equality scheme, which is going to the Board in June 2006. Teams across the Council have contributed to this. We will explore the possibility of creating equality champions with HR and others.	Policy Officer (Equality & Diversity) in LGM	Partially implemented already. 31 October 2006
2	The Council should consider the impact of the work of the Joint Information Systems Committee on its duties with respect to race equality, and should develop appropriate mechanisms to ensure that the Committee's activities are consistent with the Council's obligations under the Race Relations (Amendment) Act.	Medium	Agreed. We will discuss with JISC how best to take this recommendation forward.	Policy Officer (Equality & Diversity) in LGM	Initiate by 31 July 2006. Actions thereafter depend on the decisions made.
3	The Council should develop and implement appropriate mechanisms for ensuring that race equality is considered appropriately and consistently across all areas of policy development.	Medium	Agreed. A working group chaired by a Director has recently been established to examine this issue.	Policy Officer (Equality & Diversity) in LGM	In progress; due to complete by 31 December 2006
4	The Council should seek to publicise more extensively its activities in respect of race equality.	Low	Agreed. We already engage with local, regional and national groups and will work to enhance our communication strategy with them and in other ways. The Council's Corporate Communications team has committed to certain tasks as part of the new Single Equality Scheme.	Policy Officer (Equality & Diversity) in LGM	Ongoing

Appendix 2 Developing a race equality impact assessment process

1. Introduction

The Race Relations (Amendment) Act requires the Council to eliminate unlawful racial discrimination, to promote equality of opportunity and to promote good relations between people of different racial groups.

In order to ensure that it complies fully with the Act, the Council should ensure that issues of race equality are considered appropriately at all stages of the policy process. This paper sets out some ideas as to how this could be achieved.

2. The policy development process

The Council's policy development processes encompass a broad range of activities. These span all of the Council's strategic themes, and range from the development of sector-wide funding methodologies to the monitoring of institutions' finances, from the funding of special initiatives to the promotion of interaction between higher education and industry.

All of the Council's activities have a potential impact in respect of race equality. For this reason, it is important that all projects, programmes and policies developed by the Council are subject to an assessment of their impact on race equality, and that any issues identified are addressed appropriately.

3. Determining relevance

When considering a project, programme or policy that is being developed by the Council, it is first necessary to determine whether or not race equality is relevant in this particular situation. This relevance will depend on how much any such activity will affect people, be they members of the public, participants in higher education, members of staff at higher education institutions or members of the Council's own staff.

For example, the Council may decide that its activities surrounding the widening of participation in higher education are relevant to race equality, whereas its development of a new finance system is not.

By considering the relevance of race equality to a particular project, programme or policy, the Council can effectively 'screen' such activities to decide whether a full assessment of race equality impact is necessary. In conducting such screening, the Council could consider the following questions:

- to what extent will the project, programme or policy affect individuals or groups?
- could it affect different racial groups in different ways?
- could the project, programme or policy affect good race relations?

If the Council determines that the project, programme or policy under consideration does not have an impact in respect of race equality, it could decide that no further assessment is necessary. In such circumstances, the Council may wish for this decision to be justified in writing and approved by the relevant director. If, on the other hand, the Council decides that race equality is relevant to the area under consideration, then it should proceed to a full impact assessment.

4. Conducting a full race equality impact assessment

The aim of a full impact assessment is to determine the likely impact that a proposed project, programme or policy could have on race equality. By identifying the extent to which a project could affect different racial groups in different ways and could affect good race relations, such an assessment can assist the Council in ensuring that the projects, programmes and policies that it develops are consistent with its duty to promote race equality.

In conducting a full race equality impact assessment, the Council may wish to consider a number of questions.

- **What are the aims of the policy?** A clear and agreed understanding of what the Council is trying to achieve is key to identifying the effects that the policy could have in practice.
- **Which individuals or groups are affected?** Those affected by a policy could include not only the specific beneficiaries of the activity, but also any other individuals or groups who have an interest in the policy or the area to which it relates.
- **What is the likely impact on these individuals or groups?** In identifying the impact of a particular policy on identified individuals or groups, the Council could refer to research findings, population data, and comparisons with similar activities, surveys or other research. At this stage, the Council could also consider informal consultation with representatives of the affected individuals or groups, in order to better determine the likely impact that the policy could have on them.
- **Does the assessment or consultation show that the proposed policy is likely to have an adverse impact or harm race equality?** In such cases, the Council should consider how it is going to meet the general duty to promote race equality. The Council could consider a number of questions:
 - If one of the Council’s policies could or will lead to unlawful racial discrimination, can it find another way of meeting its aims?
 - If one of the Council’s policies could or will adversely affect people from certain racial groups, can it be justified because of its overall objectives? If the Council were to adapt the policy, could that compensate for any adverse effects?
 - If the assessment or consultation exercise reveals that certain racial groups have different needs, can the Council meet these needs, either within the proposed policy or in some other way?
 - Could the policy harm good race relations?
 - Will any change to the policy in response to the above be significant? If so, would a new assessment or consultation be appropriate?
- **What options are available for the implementation of the policy?** The Council could use the results of its initial assessment to inform the development of specific options for the implementation of the policy.
- **What is the likely race equality impact of these options?** This element of the assessment would build on the initial assessment of the impact of the policy on individuals or groups affected, by focusing on the likely impact of the specific options identified. In assessing the likely race equality impact of options for implementing the policy, the Council could consider formal consultation with stakeholders, including representatives of those individuals or groups identified as affected by the policy. The Council could conduct such a consultation through, for example, formal submissions, targeted surveys, consultation meetings, focus groups, reference groups, or public scrutiny.

- **Which of these options (if any) is the most appropriate?** The promotion of race equality is only one factor in determining which option for the implementation of the policy is the most appropriate. It is, however, a statutory requirement, and so should receive appropriate consideration.
- **Which option (if any) is to be adopted?** The Council's decision regarding the most appropriate option for the implementation of the policy should be informed by the results of the race equality impact assessment. The assessment should be signed off formally by the relevant director, to confirm that it has been completed appropriately and that the results of the assessment have been considered as part of the policy development process.

These questions, together with their relevance to each other and to the other issues discussed in this paper, are illustrated in figure 1 that follows.

5. Developing monitoring arrangements

Knowing that a policy is working as it should is vital to the promotion of race equality. Moreover, keeping track of how a policy is working, and whether it is having an adverse impact or harming race equality, depends largely on having an efficient, up-to-date, and relevant monitoring system.

For each project, programme or policy that is relevant to the promotion of race equality, the Council should determine and document in advance how (and how often) it will monitor the race equality impact of that project, programme or policy. Such monitoring could draw on, for example, statistical analysis of ethnic monitoring data, satisfaction surveys analysed by the racial group to which people belong, random or targeted surveys, focus groups, etc.

The Council should consider what it would do if its monitoring arrangements showed that one of its projects, programmes or policies was having an adverse impact on race equality. If such an adverse impact is identified, the Council should act swiftly to mitigate this impact. This could involve adapting the existing policy, developing supplementary policies to remedy the situation, or developing an entirely new policy.

6. Demonstrating commitment

In order to promote openness and to demonstrate its commitment to race equality, the Council should publish the results of any assessments, consultations and monitoring that it undertakes with respect to the promotion of race equality.

In each case, the Council should decide how best to make this information available. For example, information with respect to larger initiatives could be published separately when the initiative is announced, while information relating to smaller projects or routine activities could be published en masse on a periodic basis.

7. Conclusion

In order to ensure that it complies fully with the Race Relations (Amendment) Act, HEFCE should consider issues of race equality when developing projects, programmes and policies.

The Council can ensure that this is undertaken robustly and consistently through the development and implementation of a race equality impact assessment process, which should be applied to the development of all projects, programmes and policies.

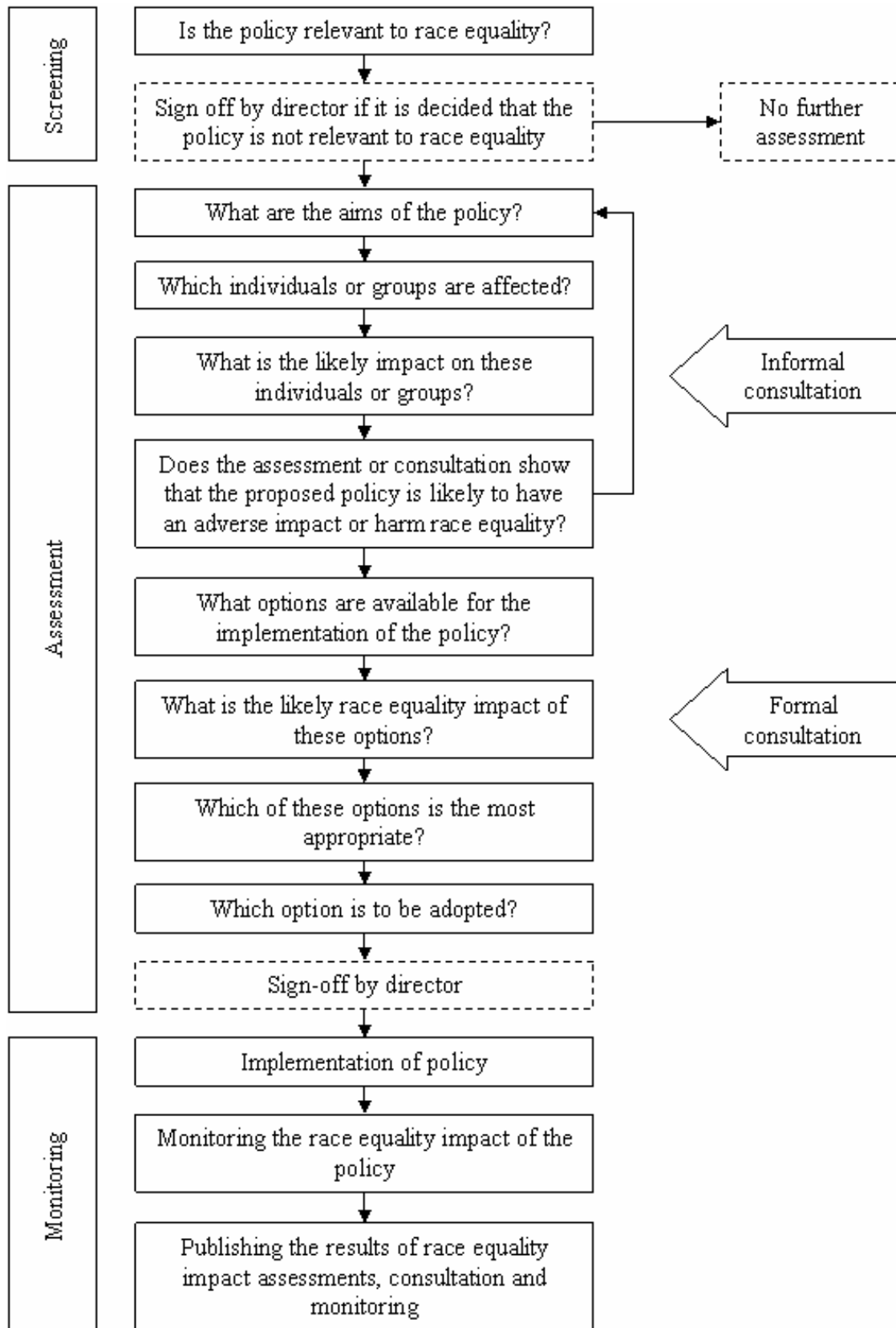


Figure 1: An example race equality impact assessment process